

General Information Letter: Illinois law requires paper W-4s.

March 16, 2005

Dear:

This is in response to your letter dated February 7, 2005, which was in response to our letter dated February 2, 2005.

In your letter you state in part as follows:

Thank you for your General Information Letter of February 2, 2005 relating to the electronic filing of Withholding returns.

In reading your response, I think there is a disconnect between our application's purpose and the way that Illinois DOR understands that process to work. My purpose in writing is to clarify terms and process steps, and then rephrase my question.

Preliminary points:

- We are not requesting approval for nor developing any application that would electronically transmit any withholding data to the Illinois DOR. (The term "electronic filing" is a point of confusion.)
- COMPANY's application is used by employers that have employees that prepare the IL-W-4 or IL-W%-NR for their employer to properly withhold Illinois withholding tax from their earnings.

COMPANY's software application would be licensed by companies to be used by employees to electronically prepare and electronically sign their withholding certificates for use by their employers. These electronically prepared and signed certificates are stored within the employer's computer systems and the selections therein are used to update the employer's payroll systems.

If an Illinois withholding certificate must be filed with the Illinois DOR because it exceeds 14 total withholding allowances, this certificate would be printed on paper and sent into the Illinois DOR by the employer.

Our request to this application is the acceptability of an electronically stored and reproduceable withholding certificate in the case of an audit conducted by the Illinois DOR. In other words, would this electronic certificate be acceptable to that auditor since it was prepared and stored electronically rather than done using a paper form?

Response:

This issue has been addressed before. In letter ruling IT-01-0061-GIL, dated August 7, 2001, the Department's Matthew Crain, of the Legal Services Bureau, pointed out

...there is in fact no specific or official authority that allows for the use of electronic systems and signatures in meeting Illinois' requirements for the completion, filing and retention of Forms IL-W-4 and IL-W-5-NR. At this time, Illinois allows for the electronic filing of eligible individuals' personal income tax forms (Form IL-1040) (See IIT Reg. Sec. 105.100 *et seq.*) as well as eligible businesses' Forms IL-ST-1s (See IIT Reg. Sec. 750.100 *et seq.*). The Department also accepts electronic payment from these eligible individuals and businesses. Finally, the Department accepts electronic funds transfers for approximately sixteen different taxes.

As you may be aware, many Illinois forms are available electronically through the Internet, including Forms IL-W-4 and IL-W-5-NR, however, at this time, the Illinois Department of Revenue's electronic filing system does not support an electronic method for completion, filing or retention of said forms.

The purpose of our correspondence to you dated February 2, 2005 was to advise you that the state of the law described in Mr. Crain's letter of August 7, 2001 remains unchanged to the present. Therefore, to answer your question more directly and succinctly, the application intended to be performed by the software you describe would **not** be acceptable to the Department for audit or any other purpose. As the remainder of our correspondence of February 2, 2005 explained, the Department will probably revise its regulations to accommodate methodology of the type you have described. For the present however, that methodology is unacceptable.

Sincerely yours,

Jackson E. Donley,
Senior Counsel-Income Tax